

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14180US02)**

In the Application of:

Ed H. Frank, et al.

Serial No. 10/658,725

Filed: September 9, 2003

For: METHOD AND SYSTEM FOR
PROVIDING AN INTELLIGENT
SWITCH FOR BANDWIDTH
MANAGEMENT IN A HYBRID
WIRED/WIRELESS LOCAL AREA
NETWORK

Examiner: Simon A. Goetze

Group Art Unit: 2617

Confirmation No. 2800

Electronically Filed on 31-MAR-2008

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on January 29, 2008, with **a period of reply through March 31, 2008**. Claims 1-25 are pending in the present Application. The Appellant has timely responded to the Examiner's Answer, as found in the following Argument section.

As may be verified in his final Office Action (page 4), dated May 24, 2007 ("Final Office Action"), claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,978,144, issued to Choksi (hereinafter, Choksi), in view of U.S. Patent Application Publication No. 2003/0134650, issued to Sundar, et al. (hereinafter, Sundar).

To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings used by the Examiner in the Examiner's Answer. The Brief on Appeal has a date of deposit of November 6, 2007.

STATUS OF THE CLAIMS

Claims 1-25 were finally rejected. Pending claims 1-25 are the subject of this appeal.

ARGUMENT

I-A. Independent Claims 1, 9, and 17

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner states the following in pages 15-16 of the Examiner's Answer:

Appellant has presented the argument that Choksi does not disclose or suggest "receiving **by** an access point or a switch a messaging protocol message ... " The Examiner respectfully disagrees with this assertion because the claim recites "receiving **from** at least one of a first access point and a first switch, at least a first messaging protocol message ..." No where in the claim is there a recitation that defines **where** the message is received. However, Choksi discloses the claimed limitation of "receiving from at least one of a first access point and a switch, at least a first messaging protocol message for establishing a communication session" in Column 7, Lines 5-15 and 33-41 where they discuss the call admission request. The call admission request is propagated through the network to the bandwidth allocation controller of Figure 2.

The Appellant respectfully disagrees. Initially, the Appellant points out that the use of "by" in "receiving **by** an access point or a switch" was a typo, which was evident from Appellant's argument in pages 7-9 of the Brief on Appeal. The Appellant agrees that the correct claim limitation is "receiving **from** at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session," as recited by the Appellant in independent claim 1. Furthermore, the Appellant maintains that **Choksi does not disclose or suggest that**

any message for establishing a communication session is received from either an access point or a switch.

The Examiner is basing his argument on the call admission requests being processed by the call bandwidth control 72 (FIG. 2 of Choksi), i.e., the Examiner has equated Appellant's "first messaging protocol message" to Choksi's "call admission request." Even if we assume, for the sake of argument, that Choksi's "call admission request" reads on Appellant's "first messaging protocol message," the Examiner's argument is still deficient. **The Appellant points out that Choksi does not disclose that the call admission request is received from either an access point or a switch.** Choksi also discloses the following with regard to the call bandwidth control 72:

The call bandwidth control 72 receives and processes call admission and additional bandwidth request ***for existing calls*** within the cell 34.

See Choksi at col. 4, lines 38-40 (emphasis added). In this regard, the call admission requests are received and processed by the bandwidth control 72 only with regard to existing calls within the cell 34, in order to prevent the cell 34 from exceeding its maximum transmit power. Therefore, **Choksi's "call admission requests" are utilized only with regard to established calls and they are not utilized for purposes of "establishing a communication session," as recited in Appellant's claim 1.**

In response to Appellant's Brief on Appeal, the Examiner states the following in page 16 of the Examiner's Answer:

Furthermore, the argument has been presented Sundar et al. fails to disclose or suggest that "an access point is notified of allocated bandwidth using a messaging protocol message." The Examiner respectfully disagrees because during the call setup the switch is notified that the connection has been allowed (see Figure 12 and Page 6, Paragraphs 0074-0075).

The Appellant respectfully disagrees and points out that **the issue is not whether or not Sundar's switch, or any other device, "has been notified that the connection has been allowed."** The relevant claim limitation is **"notifying said first access point of said allocated bandwidth using at least a second messaging protocol message,"** as recited in Appellant's claim 1. Firstly, the Appellant points out that **neither Sundar nor Choksi discloses any notification being sent to an access point.** Secondly, **notifying a device that the connection has been established is different from notifying a device of a previously allocated bandwidth.** Obviously, **bandwidth may be allocated without establishing a connection.** Therefore, the Appellant maintains that Sundar does not disclose "notifying said first access point of said allocated bandwidth using at least a second messaging protocol message," as recited in Appellant's claim 1.

The Appellant respectfully submits that claims 1, 9, and 17 are allowable.

I-B. Dependent Claims 2, 10, and 18

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner states the following in page 16 of the Examiner's Answer:

This is evidenced because the first messaging protocol message (as discussed in claim 1 by Choksi as being a call admission request) initiates the establishing of the session.

The Appellant respectfully disagrees. **As already explained above, Choksi's "call admission requests" are utilized only with regard to established calls and they are not utilized for purposes of establishing a communication session, as erroneously stated by the Examiner.**

The Appellant respectfully maintains that dependent claims 2, 10, and 18 are allowable.

I-C. Dependent Claims 3, 11, and 19

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner states the following in page 17 of the Examiner's Answer:

Initially, claim 3 is not specifically limited so that the usage information is in "regard to an access point or a switch..." The claim only states that the information is requested from one of these entities. Furthermore, Choksi discloses requesting bandwidth information about at least a portion of the network when the call admission request is sent over the network. See Column 7, Lines 42-48.

The Appellant respectfully disagrees. As already stated above, the Examiner has equated Appellant's "first messaging protocol message" to Choksi's "call admission request." Furthermore, Choksi does not disclose that the call admission requests are used for purposes of requesting bandwidth usage information.

The Appellant respectfully maintains that dependent claims 3, 11, and 19 are allowable.

I-D. Dependent Claims 4, 12, and 20

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner states the following in page 18 of the Examiner's Answer:

Appellant acknowledges the signaling by the system that the "resources may be cleared." This clearing takes process when the user is no longer connected to the previously established system. Therefore disclosing the limitation of "de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session. Therefore, the process outlined in Sundar et al. in Figure 12, and described on Page 6, Paragraph 0074 discloses bandwidth allocation and de-allocation for an access point and/or a switch in a hybrid network using a messaging protocol message.

Even though Sundar may disclose that resources may be cleared, the Appellant maintains that Sundar is silent as to **how** the resources are cleared. Namely, Sundar discloses that WLAN only sends a message that resources may be cleared, while the communication session is still established. However, **Sundar, including the steps in Figure 12, does not disclose that de-allocating of allocated bandwidth will occur using a messaging protocol message and subsequent to termination of the established communication session**, as recited by the Applicant in claim 4. The Examiner has not presented any evidence as to where the above limitations from Appellant's claim 4 may be found in Sundar.

The Appellant respectfully maintains that dependent claims 4, 12, and 20 are allowable.

I-E. Dependent Claims 5, 13, and 21

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner states the following in page 18 of the Examiner's Answer:

Appellant acknowledges the signaling by the system that the "resources may be cleared." This clearing takes process when the user is no longer connected to the previously established system. Therefore disclosing the limitation of "de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session.

Even though Sundar may disclose that resources may be cleared, the Appellant maintains that Sundar is silent as to **how** the resources are cleared. Namely, Sundar discloses that WLAN only sends a message that resources may be cleared, while the communication session is still established. However, **Sundar, including the steps in Figure 12**, does not disclose that de-allocating of allocated bandwidth will occur using a messaging protocol message or sending the messaging protocol message from one access point/switch to another. The Examiner has not presented any evidence as to where the above limitations from Appellant's claim 5 may be found in Sundar.

The Appellant respectfully maintains that dependent claims 5, 13, and 21 are allowable.

I-F. Dependent Claims 6, 14, and 22

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

The Appellant respectfully maintains that dependent claims 6, 14, and 22 are allowable.

I-G. Dependent Claims 7, 15, and 23

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

The Appellant respectfully maintains that dependent claims 7, 15, and 23 are allowable.

I-H. Dependent Claims 8, 16, 24, and 25

The Appellant stands by the argument made in the corresponding sections of the Brief on Appeal.

The Appellant respectfully maintains that dependent claims 8, 16, 24, and 25 are allowable.

CONCLUSION

The Appellant submits that the pending claims 1-25 are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account № 13-0017.

Respectfully submitted,

Date: 31-MAR-2008

By: /Ognyan I. Beremski/
Ognyan Beremski, Reg. No. 51,458
Attorney for Appellant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775 – 8100

(OIB)